

APPENDIX F

U.S. FISH AND WILDLIFE SERVICE CONCURRENCE LETTER



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4000 Morrie Avenue
Cheyenne, Wyoming 82001

ES-61411
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July 21, 2000

Memorandum

To: Bill McMahan, Project Coordinator, Bureau of Land Management, Pinedale Field Office, Pinedale, Wyoming

From: Michael M. Long, Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming *Michael M. Long*

Subject: Threatened and Endangered Species Concurrence for the Pinedale Anticline Project

This responds to your request for concurrence under the Endangered Species Act of 1973, as amended (Act), that the actions proposed in the Pinedale Anticline Project (project) in Sublette County, Wyoming are not likely to adversely affect any listed or proposed species.

The U.S. Fish and Wildlife Service (Service) has reviewed the submitted project description and evaluation of project effects, and concurs with your determination that none of the project activities are likely to adversely affect the black-footed ferret (*Mustela nigripes*) or bald eagle (*Haliaeetus leucocephalus*), and are not likely to jeopardize the mountain plover (*Charadrius montanus*). This concurrence is based, in part, on the mitigative measures proposed by the Bureau as provided in the Record of Decision. Our understanding of those mitigative measures are described below.

Black-footed Ferret

- Proposed construction sites in the project area will be examined prior to surface-disturbing activities to confirm the presence or absence of prairie dog colonies. If prairie dogs are present, a determination as to whether the colony/complex meet the criteria for black-footed ferret habitat as established in the Service's 1989 guidelines will be made.
- If a prairie dog colony/complex meets the criteria for black-footed ferret habitat, all project components will be placed to avoid direct, indirect and cumulative impacts to the colony/complex. If this is not practical or possible, black-footed ferret surveys of the prairie dog colony/complex will be conducted in accordance with Service's guidelines

and requirements. The results of the surveys will be provided to the Service.

- If a black-footed ferret or its sign is found during the surveys, the Bureau of Land Management (BLM) Authorized Officer shall stop all action on the application in hand, and/or action on any future application that may directly, indirectly, or cumulatively affect the colony/complex, and re-initiate section 7 review with the Service. No project-related activities will be allowed to proceed until the Service issues their biological opinion. The Service's biological opinion will determine whether the proposed activity is likely to jeopardize the continued existence of the black-footed ferret. In the case of a jeopardy biological opinion, a reasonable and prudent alternative will be provided by the Service if possible. In the case of a non-jeopardy biological opinion, the Service will provide reasonable and prudent measures and terms and conditions to minimize any anticipated take of ferrets.

Bald Eagle

- No surface disturbing or human activities will be authorized between November 15 through March 15 within 1 mile of known bald eagle winter use areas.
- All surface-disturbing or human activity, including construction of roads, pipelines, well pads, drilling, completion, or workover operations, will be seasonally restricted from February 15 through August 15 within 1.0 mile of all active eagle nests. An active eagle nest is one that has been occupied once in the past 3 years.
- No permanent, project related, high profile structures will be located within 2,600 feet of an active bald eagle nest. Well pads will be located so that they are at least 2,600 feet from, and out of the direct line of sight of, bald eagle nest(s).
- Wells that must be located closer than 2,600 feet, (but will not be allowed closer than 2,000 feet) will be out of direct line-of-sight of the nest and will have no human activity at the well site from February 15 through August 15, except in the case of an emergency. Production facilities for these wells will be located off site or at a central production facility location at a distance of 2,600 feet or more from the nest.
- Central production facilities will be located at least 2,600 feet from a bald eagle nest.
- Prior to surface disturbing activities during the nesting season or in wintering areas, the BLM will require completion of a field survey in these areas. New roads identified as a potential adverse impact to listed species will not be constructed or BLM will re-initiate section 7 consultation.

Mountain Plover

- For surface disturbing activities, surveys will be conducted within suitable plover habitat by a qualified biologist in accordance with Service's 1999 guidelines.

- If an active nest is found in the survey area, the planned activity should be delayed 37 days, or 1 week post-hatching. If a brood of flightless chicks is observed, activities should be delayed at least 7 days.
- For all breeding birds observed, additional surveys will be conducted immediately prior to construction activities during the breeding season to search for active nest sites.
- If an active nest is located, an appropriate buffer area will be established to prevent direct loss of the nest or indirect impacts from human-related disturbance. The appropriate buffer distance will vary, depending on topography, type of activity proposed, and duration of disturbance. For disturbances including pedestrian foot traffic and continual equipment operations, a 200-meter (656-foot) buffer is required, unless the Service concurs that a reduced buffer will still protect the nest from direct and indirect take.
- If, during the life of the project the mountain plover should become listed as an endangered or threatened species, and if the project may affect the plover, the BLM will initiate section 7 consultation with the Service. If formal consultation is necessary, all reasonable and prudent measures specified by the Service will be required by the Bureau and implemented by the Operator and their contractors.

We also concur that this project is not likely to jeopardize the whooping crane (*Grus americana*) due to the minimal availability of migratory habitat on the project area, the low numbers of birds potentially migrating through the project area, and the mobility of this species. Whooping cranes are not known to nest in, or near, the project area. Likewise, due to the lack of suitable habitat on the project area, we concur that this project is not likely to adversely affect the Canada lynx (*Lynx canadensis*).

For impacts to the four endangered Colorado river fish (Colorado pikeminnow, humpback chub, bonytail, and razorback sucker) from anticipated depletions to the Colorado River system, the project proponents have agreed to pay a depletion fee in compliance with the reasonable and prudent alternative described in the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin. Nonetheless, formal consultation must still be completed prior to initiation of any project-related activity that would cause a depletion.

Should project plans change, additional information on listed or proposed species become available, or a new species is listed or critical habitat designated that may be affected by the action, these determinations may be reconsidered and re-initiation of consultation may be required.

Adaptive Environmental Management Planning Process

Due to time limitations, we were unable to review the adaptive environmental management planning process. Therefore, we are unable to provide concurrence with this plan at this time.

Bill McMahan

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The above comments are provided in accordance with the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). If you have any comments, please contact Pat Deibert of my staff at the letter head address, or by calling (307) 772-2374, ext. 26.

cc: G. Towns, ES, FWS, Denver, CO
Dir., WGFD, Cheyenne, WY

